IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10774 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RANCHODBHAI MAGANBHAI ODE
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR AR MAJMUDAR with MR NK MAJMUDAR for the Petitioner
MS AC RAVAL, ASSISTANT GOVERNMENT PLEADER for the Respondents

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 03/08/2006

ORAL JUDGMENT

1. **RULE**. Ms.Archana C.Raval, learned Assistant Government Pleader waives service of rule on behalf of the respondents.

At the joint request of the learned advocates, the matter is taken up for final hearing and disposal.

2. Present is the petition filed being aggrieved by

orders dated 14.02.2006 passed by the Deputy Secretary, Industries and Mines Department, 27.04.2004 passed by the Additional Director Geology Science and Mineral Department and 15.11.2002 passed by the Collector, Navasari.

3. The main grievance of the petitioner is that he did not get an opportunity to represent his case before the two authorities. In the order of the Collector dated 15.11.2002, produced at Annexure-A to this petition, it is reported that on 21.10.2002, the petitioner was asked to remain present, but he did not remain present therefore, the Collector had to pass the order in absence of the petitioner. Against that order, a revision was filed before the Additional Director where too, it is recorded that on 25.06.2003, 06.08.2003 and 24.09.2003, the petitioner was informed by Registered Pose A.D. Letter about the personal hearing fixed, but the petitioner had not remained present and therefore, the authority had to dismissed the revision of the petitioner. Against that order, the petitioner had approached the Government by filing an appeal. But then, before the Government, the petitioner could not explain the reasons for delay in making the application for renewal of lease, the appeal was dismissed.

In substance, the entire case has gone in default. Firstly, the petitioner did not make an application for

renewal of lease in time. Thereafter, he did not remain present before the Collector to avail an opportunity of hearing. He did not remain present before the Additional Director also. Lastly before the Government, he could not explain his conduct.

4. The petitioner was asked to remain present before the Court, accordingly, he is present and assures the Court that he will remain present before the authority if the case is remanded with a direction to decide the same afresh.

Only on the ground that the petitioner did not remain present before the two authorities and before the third authority, he could not explain his conduct, the orders are passed against him. The authorities have not alleged any misconduct or irregularity. Thus, there is nothing against him on record.

5. In view of that, orders dated 15.11.2002, 27.04.2004 and 14.02.2006 are hereby quashed and set aside. The matter is remanded to the Collector, Navasari to decide the same afresh. It is directed that the petitioner shall remain present before the Collector on 22.08.2006. The Collector shall accord him an opportunity of personal hearing and decide the case afresh. In case it is not convenient to the Collector to hear the matter on 22.08.2006, the Collector may give a fixed date to the

petitioner. On that date, the petitioner shall remain present and represent his case. The petition is allowed. Rule is made absolute with no order as to costs.

(RAVI R.TRIPATHI, J.)

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